

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION

ERVIN WALKER, et. al.,	)	
	)	
Plaintiffs,	)	
	)	
vs.	)	Case No. 4:19-cv-00122-RLW
	)	
DIRECTORY DISTRIBUTING	)	
ASSOCIATES, INC., et. al.	)	
	)	
Defendants.	)	
	)	

**SECOND STIPULATION TO CONTINUE (1) RULE 16 CONFERENCE  
AND (2) DEADLINE FOR FILING JOINT SCHEDULING PLAN**

COME NOW the represented plaintiffs (the “Walker Plaintiffs”)<sup>1</sup>, and all of the defendants, consisting of (i) John P. Vaclavek, chapter 11 trustee for Directory Distributing Associates, Inc. (the “Trustee”) or “DDA”), (ii) AT&T Corp. and (iii) certain individual defendants (the “Individual Defendants”),<sup>2</sup> by and through their respective undersigned counsel, who submit this Joint Stipulation to Continue (1) Rule 16 Conference and (2) Deadline for Filing Joint Scheduling Plan (the “Stipulation”).

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<sup>1</sup> The *Walker Plaintiffs* include named plaintiffs Donald Walker, Eric Allen, Justin Cooper, Regina Coutee, and Brian Mathis. Former named plaintiff Trent Jedkins filed a Notice of Non-Suit Without Prejudice on October 7, 2016. Named plaintiff Ervin Walker (“Walker”), the original plaintiff, filed the original petition *pro se*, was thereafter represented by counsel, and is now *pro se* again. Walker is not within the definition of “*Walker Plaintiffs*” for purposes of this Joint Status Report. The *Walker Plaintiffs* also include over 2,000 individuals who have filed consents to opt-in to the *Walker* collective action (as described below).

<sup>2</sup> The Individual Defendants as of today are Richard Price, Steve Washington, Laura Washington, Roland E. Schmidt, and Sandy Sanders.

## **INTRODUCTION**

1. The parties to *Ervin Walker, et al. v. Directory Distributing Associates, Inc., et al.* other than Ervin Walker (the “Walker Parties” to the “Walker Case”)<sup>3</sup> submit this Stipulation in response to the Rule 16 Order entered by this Court on January 31, 2019 [dkt. # 11] (the “Rule 16 Order”).<sup>4</sup>

2. As is explained in further detail below, in light of their renewed settlement efforts, the *Walker Parties* request that the Court continue the current April 5 deadline to submit a Joint Scheduling Plan and the current April 12 Scheduling Conference. Specifically, the *Walker Parties* request the Scheduling Conference be set on or after May 31, 2019 and that the Joint Scheduling Plan should be due seven (7) days before the Scheduling Conference.

## **THE PARTIES AND RELATED LEGAL PROCEEDINGS**

3. On October 16, 2016, DDA filed a voluntary petition under Chapter 11 of the United States Bankruptcy Code in the United States Bankruptcy Court for the Eastern District of Missouri (the “Missouri Bankruptcy Court”), case No. 16-47428 (the “Bankruptcy Case”). John P. Vaclavek was thereafter appointed the Chapter 11 trustee for DDA, and the Chapter 11 trustee is now a party to the *Walker Case*.

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<sup>3</sup> To avoid any doubt, Ervin Walker, the *pro se* plaintiff, is not included in the definition of “*Walker Parties*” as used in this Joint Status Report.

<sup>4</sup> Each of the *Walker Parties* agrees that nothing contained in this Stipulation can be used against any other *Walker Party* in the *Walker Case*, or against any of the parties in the *Krawczyk Case* or the *Bankruptcy Case* (as those terms are hereafter defined), or in any other future dispute of any kind involving any of the *Walker Parties* or any of the parties to the *Krawczyk Case*.

4. On May 10, 2016, James Krawczyk filed a case styled *Krawczyk v. Directory Distributing Associates, Inc., and AT&T Corp.* (the “Krawczyk Case”), Case No. 3:16-cv-02531-VC, in the United States District Court for the Northern District of California (the “California Federal Court”). The Krawczyk Case alleged similar violations of the Fair Labor Standards Act (“FLSA”) that had been alleged in the Walker Case. DDA (through its Chapter 11 trustee) and AT&T are defendants in the Krawczyk Case. In addition, several other parties that were not named as defendants in the Walker Case were named as defendants in the Krawczyk Case. The Individual Defendants in the Walker Case are not defendants in the Krawczyk Case.

**BANKRUPTCY COURT’S MEDIATION ORDER AND  
THE AUGUST 7-8 MEDIATION**

5. On January 22, 2018, the Missouri Bankruptcy Court entered its order (the “Mediation Order”) directing certain parties in the Walker Case,<sup>5</sup> the Krawczyk Case, and the Bankruptcy Case to participate in a mediation session on August 7-8, 2018 with Mark Rudy, Esq. and Honorable Steven Rhodes (Ret.) (the “Mediation”).

6. The Mediation was unsuccessful.

**WITHDRAWAL OF THE REFERENCE AND TRANSFER TO THIS COURT**

7. Thereafter, the Walker Plaintiffs renewed their motion to withdraw the reference of the *Walker* Case from the Bankruptcy Court to the United States District Court for the Eastern District of Missouri. Following briefing and oral argument, in an

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<sup>5</sup> Specifically, the Mediation Order stated Ervin Walker could attend the Mediation but he was not required to attend. Mr. Walker did not personally attend the Mediation. In addition, the Mediation Order stated the Individual Defendants in the Walker Case were not required to attend the Mediation. Finally, the Mediation Order required the shareholders of DDA (collectively, the “Runks”) to attend the Mediation, and the Runks did attend the Mediation.

order filed on January 25, 2019, the Honorable Henry Edward Autrey granted the motion [dkt. # 52 in Case No. 4:17-cv-01229-HEA].

8. The *Walker* Case was thereafter assigned to this Court, and on January 31, 2019, the Court issued the original Rule 16 Order, which scheduled a Rule 16 conference for March 8, 2019, and required the filing of a Joint Scheduling Plan by March 1, 2019. Thereafter, at the request of the parties, this Court continued the Rule 16 conference to April 12 and extended the filing of a Joint Scheduling Plan to April 5.

9. The parties now request a further extension to accommodate the ongoing settlement discussions.

#### **MOTION TO ESTIMATE CLAIMS**

10. On February 7, 2019, the *Walker* Parties presented over two hours of oral argument in the Bankruptcy Court on the Trustee's motion to estimate the claims in the *Walker* Case and the *Krawczyk* Case pursuant to 11 U.S.C. §502(c)(1). The matter raised a number of complex issues under titles 11 and 28 of the United States Code, and at the conclusion of the hearing, Chief Bankruptcy Judge Kathy Surratt-States called the parties into chambers and encouraged them to renew the efforts to settle their disputes. The *Walker* Parties confirmed their shared desire to try to reach a settlement. Consequently, Judge Surratt-States indicated that she intended to withhold her ruling on the estimation motion to enable settlement efforts to continue. Judge Surratt-States directed the *Walker* Parties to present a status report to the Bankruptcy Court at a telephonic hearing on March 1 and then later on March 18. In both status reports, the Walker Parties confirmed to the Bankruptcy Court their shared desire to settle their disputes.

11. The *Walker* Parties hereby also confirm to this Court their shared desire to settle. To that end, they already have exchanged additional data and participated in a February 25 settlement meeting in Dallas. They are currently attempting to arrange for an additional mediation session.

**STIPULATION**

12. The *Walker* Parties do not know whether they will be able to reach a settlement. However, they agree that their efforts at this time should be directed to settlement rather than to preparing for litigation that may or may not move forward.

13. In light of the foregoing, the Walker Parties request that the Court continue the April 5 Joint Scheduling Plan deadline and the April 12 Scheduling conference. The parties request that the Scheduling Conference be set on or after \_\_\_\_\_, 2019 and that the Joint Scheduling Plan be due seven (7) days before the Scheduling Conference.

Dated: April 5, 2019

(Signature pages begin on the next page)

SUMMERS COMPTON WELLS LLC

By: /s/ Bonnie L. Clair  
Bonnie L. Clair MO # 41696  
bclairattymo@summerscomptonwells.com  
8909 Ladue Road  
St. Louis, MO 63124  
(314) 991-4999  
Fax: (314) 991-2413

Co-Counsel for Plaintiffs

MITHOFF LAW

By: /s/ Richard W. Mithoff  
Richard W. Mithoff (Pro Hac Vice)  
[rmithoff@mithofflaw.com](mailto:rmithoff@mithofflaw.com)  
Janie L. Jordan (Pro Hac Vice)  
[jjordan@mithofflaw.com](mailto:jjordan@mithofflaw.com)  
500 Dallas Street, Suite 3450  
Houston, TX 77002  
(713) 654-1122  
Fax: (713) 739-8085

Co-Counsel for Plaintiffs

HOLMES DIGGS EAMES & SADLER

By: /s/ Judith Sadler  
Judith Sadler (Pro Hac Vice)  
[jsadler@holmesdiggs.com](mailto:jsadler@holmesdiggs.com)  
Cynthia Thomson Diggs (Pro Hac Vice)  
[cdiggs@holmesdiggs.com](mailto:cdiggs@holmesdiggs.com)  
5300 Memorial Drive, Suite 900  
Houston, TX 77007  
(713) 802-1777  
Fax: (713) 802-1779

Co-Counsel for Plaintiffs

BECK REDDEN LLP

By: /s/ Russell S. Post  
Russell S. Post (Pro Hac Vice)  
[Rpost@beckredde.com](mailto:Rpost@beckredde.com)  
1221 McKinney, Suite 4500  
Houston, TX 77010  
(713) 951-3700  
Fax: (713) 951-3720

Co-Counsel for Plaintiffs

THOMPSON COBURN LLP

By: /s/ David A. Warfield  
David A. Warfield, MO # 34288  
dwarfield@thompsoncoburn.com  
One US Bank Plaza  
St. Louis, MO 63101  
(314) 552-6000  
Fax (314) 552-7000

Counsel for Defendant, John P. Vaclavek,  
Chapter 11 Trustee for Directory Distributing  
Associates, Inc.

MCCARTHY LEONARD &  
KAEMMERER LC

By: /s/ Brian E. McGovern  
Brian E. McGovern MO #34677  
[bmcgovern@mlklaw.com](mailto:bmcgovern@mlklaw.com)  
825 Maryville Centre Drive, Suite  
300  
Town & Country, MO 63017-5946  
(314) 392-5200  
Fax: (314) 392-5221

Counsel for Defendant, Directory  
Distributing Associates, Inc.

ORRICK HERRINGTON & SUTCLIFFE LLP

By: /s/ Marc A. Levinson  
Marc A. Levinson (Pro Hac Vice)  
malevinson@orrick.com  
Julie A. Totten (Pro Hac Vice)  
jatotten@orrick.com  
400 Capital Mall, Suite 3000  
Sacramento, CA 95814  
(916) 447-9200  
Fax: (916) 329-4900

Counsel for AT&T Corp.

LUTTRELL & WILLIAMS P.C.

By: /s/ L. Don Luttrell  
L. Don Luttrell (Pro Hac Vice)  
[uhdluttrell@aol.com](mailto:uhdluttrell@aol.com)  
3000 Wesleyan, Suite 245  
Houston, TX 77027  
(713) 877-1077

Counsel for certain Individual  
Defendants

HESSE MARTONE, P.C.

By: /s/ J. Steven Erickson  
J. Steven Erickson  
steveerickson@hessemartone.com  
13354 Manchester Rd., Suite 100  
St. Louis, MO 63131  
(314-862-0300)

Counsel for certain Individual  
Defendants

CERTIFICATE OF SERVICE

The undersigned certifies that on April 5, 2019 the foregoing was served electronically on the following by the Court's ECF Notice system on the following:

U.S. BANKRUPTCY COURT [CAMailbox@moeb.uscourts.gov](mailto:CAMailbox@moeb.uscourts.gov)

Bonnie L. Clair [blcattymo@summerscomptonwells.com](mailto:blcattymo@summerscomptonwells.com)

Brian E. McGovern [bmcgovern@mlklaw.com](mailto:bmcgovern@mlklaw.com), [tchamberlain@mlklaw.com](mailto:tchamberlain@mlklaw.com)

Cynthia Thomson Diggs [cdiggs@holmesdiggs.com](mailto:cdiggs@holmesdiggs.com)

David A. Warfield [dwarfield@thompsoncoburn.com](mailto:dwarfield@thompsoncoburn.com)

Janie L. Jordan [jjordan@mithofflaw.com](mailto:jjordan@mithofflaw.com)

Johnie Patterson [jjp@walkerandpatterson.com](mailto:jjp@walkerandpatterson.com)

Judith Sadler [jsadler@holmesdiggs.com](mailto:jsadler@holmesdiggs.com)

Julie A. Totten [jatotten@orrick.com](mailto:jatotten@orrick.com)

L. Don Luttrell [uhdluttrell@aol.com](mailto:uhdluttrell@aol.com)

Marc A. Levinson [Malevinson@orrick.com](mailto:Malevinson@orrick.com)

Richard W. Mithoff [rmithoff@mithofflaw.com](mailto:rmithoff@mithofflaw.com)

Russell S. Post [rpost@beckredde.com](mailto:rpost@beckredde.com)

Zack A. Clement [zack.clement@icloud.com](mailto:zack.clement@icloud.com)

In addition, on April 5, 2019, a copy of the foregoing was served on Ervin Walker, pro se, at [wlkervn@aol.com](mailto:wlkervn@aol.com).

/s/ David A. Warfield  
David A. Warfield